

**ANNUAL PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS (PAIR)  
PROGRAM PERFORMANCE REPORT****Fiscal Year: 2004**

<b>DESIGNATED AGENCY IDENTIFICATION</b>		
Name: Virginia Office for Protection and Advocacy		
Address: 1910 Byrd Avenue, Suite 5		
Richmond, VA 23230		
E-mail Address (if applicable): general.vopa@vopa.virginia.gov		
Website Address (if applicable): www.vopa.state.va.us		
Phone: (804) 225-2042	TTY: (804) 225-2042	
Toll-free Phone: (800) 552-3962	Toll-free TTY: (800) 552-3962	
Fax: (804) 662-7057		
Name of P&A Executive Director: Colleen Miller, Esq.		
Name of PAIR Director/Coordinator: Colleen Miller, Esq.		
Person to contact regarding report: Sherry Confer, LCSW		
Contact Person's phone: (804) 662-7375		
<b>PART I. NON-CASE SERVICES:</b>		
<b>A. Individual Information and Referral Services (I&amp;R):</b> (Multiple responses are not permitted.)		
1. Individuals receiving I&R <u>within</u> PAIR's priority areas		
2. Individuals receiving I&R <u>outside</u> of PAIR's priority areas		
3. Total individuals receiving I&R (lines A1+A2) (includes I&R related to the Virginians with Disabilities Act)		8165
Over the past year, VOPA began the process of assessing all federal grant requirements for reporting information and referral requests. Some grants require just reporting the number of individuals requesting, some require the number of issues presented, and similar to PAIR, some require specific categories. VOPA has discovered that just as the reporting requirements differ, so have the staff practices, some have reported numbers of individuals, some have reported issues and some have reported both. We have developed a reporting instrument that will reflect all the requirements and it was implemented October 1, 2004.		
<b>B. Training Activities:</b>		
1. Number of trainings presented by PAIR staff		14+
2. Number of individuals who attended these trainings (approximate)		804
Describe the trainings presented by PAIR staff. Be sure to include information about the topics covered, the training methods used, and the purpose for the training. Use separate sheets if necessary.		
<b>Date</b>	<b>Title of Presentation</b>	<b>Audience</b>
11/05/03	Special Education Rights	Students and parents
11/8/03	Special Education Rights	Circle of Support Conference
11/11/03	Overview of Special Ed. Law	Parents and children with disabilities

11/15/03	Transition Law	Future Quest Conference
11/24/03	VOPA's Focus Areas	CIL Staff
1/30/04	VOPA Overview	Veterans
1/31/04	Transition Rights and VOPA	Parents and staff
2/5/04	VOPA and Transition	Social worker and four interns
2/11/04	VOPA's Assistive Technology (AT) Loan Fund Authority and AT Training	CIL
2/24/04	Speaker on VA Voice (radio station)	Blind/visually impaired
2/25/04	Communication Access for People with Hearing Loss	Hospital Staff
3/16/04	VOPA and Transition	PTA at the Virginia School for the Deaf Blind & Multi-Disabled
3/20/04	College Quest (transition conference)	Parents and students with disabilities
4/24/04	Transition Services	Parents of students who attend the Virginia School for the Deaf, Blind, and Multi-Disabled
<b>PLUS:</b> At least one CIL per month	"Office Hours": VOPA attorneys are available at Centers for Independent Living (CIL) for Information/Referral and Technical Assistance	CIL Members and Staff

#### **C. Information Disseminated to the Public:**

1. Radio and TV appearances by PAIR staff	1
2. Newspaper/magazine/journal articles	
3. PSAs/videos aired	1*
4. Hits on the PAIR/P&A website	15178
5. Publications/booklets/brochures disseminated	
6. Other-All VOPA publications and quarterly newsletters are posted on the VOPA website to help ensure a broad dissemination.	

\*This PSA, that was aired on television, was reformatted and also posted on the VOPA website. CD-ROMS were developed and distributed to a targeted population.

#### **PART II. INDIVIDUALS SERVED:**

**A. Individuals Served:** (An individual is counted only once per fiscal year. Multiple counts are not permitted for lines A1 through A3.)

1. Individuals who were still being served as of October 1 (carryover from prior fiscal year)	56
2. Additional individuals who were served during the year	43
3. Total individuals served (lines A1+A2)	99
4. Individuals who had more than one case file opened/closed during the fiscal year. (This number is not added to the total on line A3 above.)	

**B. Individuals still served as of September 30** (carryover to next year) (May not exceed total on line II.A.3 above.) 36

#### **C. Problem Areas/Complaints of Individuals Served:**

01. Architectural accessibility	12
02. Employment	4
03. Program access	46

04. Housing	
05. Government benefits/services	19
06. Transportation	
07. Education	7
08. Assistive technology	
09. Voting	
10. Health Care	13
11. Insurance	
12. Non-government Services	
13. Privacy Rights	
14. Access to Records	1
15. Abuse	1
16. Neglect	2
17. Other	4
<b>D. Reasons for Closing Individual's Case Files:</b>	
1. Issues resolved partially or completely in the individual's favor	47
2. Other representation found	
3. Individual withdrew complaint	8
4. Appeals were unsuccessful	
5. PAIR services not needed due to individual's death, relocation, etc.	1
6. PAIR withdrew from case	
7. PAIR unable to take case because of lack of resources	
8. Individual's case lacks legal merit	7
9. Other (Please explain on separate sheet.)	
<b>E. Intervention Strategies Used in Serving Individuals:</b> (List the <u>highest level</u> of intervention used by PAIR prior to closing each case file.)	
1. Technical assistance in self-advocacy	12
2. Short-term assistance	23
3. Investigation/monitoring	3
4. Negotiation	25
5. Mediation/alternative dispute resolution	
6. Administrative hearings	
7. Litigation (including class actions)	
8. Systemic/policy activities	
<b>PART III. STATISTICAL INFORMATION ON INDIVIDUALS SERVED:</b>	
<b>A. Age of Individuals Served:</b> (as of October 1) (Multiple responses not permitted.)	
1. 0 - 4	1
2. 5 - 22	9
3. 23 - 59	74
4. 60 - 64	6
5. 65 and over	9
6. Unknown	
<b>B. Gender of Individuals Served:</b> (Multiple responses not permitted.)	
1. Females	37
2. Males ( <i>includes 1 case served with VDA funding</i> )	62

<b>C. Race/Ethnicity of Individuals Served:</b> (Multiple responses not permitted.)	
1. White ( <i>includes 1 case served with VDA funding</i> )	68
2. Black or African American	25
3. American Indian or Alaska Native	
4. Asian	1
5. Native Hawaiian or other Pacific Islander	
6. Hispanic or Latino	
7. Race/ethnicity unknown	5
<b>D. Living Arrangements of Individuals Served:</b> (Multiple responses not permitted.)	
01. Independent	54
02. Parental or other family home ( <i>includes 1 case served with VDA funding</i> )	13
03. Community residential home	1
04. Foster care	
05. Nursing home	1
06. Public institutional living arrangement	1
07. Private institutional living arrangement	
08. Jail/prison/detention center	29
09. Homeless	
10. Other living arrangements	
11. Living arrangements not known	
<b>E. Primary Disability of Individuals Served:</b> (Identify the individual's primary disability, namely the one directly related to the issues/complaints raised by the individual.)	
01. Blind/visual impairment	7
02. Deaf/hard of hearing	28
03. Deaf-blind	1
04. Orthopedic impairment	14
05. Mental illness	1
06. Substance abuse	
07. Mental retardation	1
08. Learning disability	5
09. Neurological impairment	2
10. Respiratory impairment	
11. Heart/other circulatory impairment	4
12. Muscular/skeletal impairment	6
13. Speech impairment	
14. AIDS/HIV	
15. Traumatic brain injury	
16. Other disability	30
<b>PART IV. SYSTEMIC ACTIVITIES AND LITIGATION:</b>	
<b>A. Systemic Activities:</b>	
1. Number of policies/practices changed as a result of non-litigation systemic activities. <i>VOPA cannot accurately report the actual number of policies and practices that changed.</i>	
2. Number of individuals potentially impacted by policy changes: <i>VOPA cannot accurately estimate the number of individuals potentially impacted by policy/practice changes. In Virginia, there are approximately one million</i>	

*persons with disabilities. VOPA would like to believe that the policy/practice changes are enduring and that at least through word of mouth, could potentially impact every Virginian with a disability and every visitor to Virginia with a disability.*

Describe your systemic activities. Be sure to include information about the policies that were changed and how these changes benefit individuals with disabilities. Include case examples of how your systemic activities impacted individuals served.

VOPA's role during the General Assembly, and throughout the year, is to be available to educate policy makers about the implications of proposed legislation for people with disabilities in the Commonwealth of Virginia. In the FY04 General Assembly session, VOPA monitored over 20 bills from the House of Representatives and Senate of Virginia. We posted a notice on our website identifying these bills and encouraged the public to use the General Assembly's website about other bills. In addition, we received communication from the public about other bills that were of importance to the disability communities in Virginia. These recommendations were explored and some were added to the VOPA list to monitor and track. Bills of note related to the PAIR included the following:

HB 817 & SB 381- Continued the Disability Commission. The Disability Commission serves as a forum where the needs and issues of people with disabilities can be addressed through the collaboration of members of the legislature, the Lieutenant Governor, the Governor's appointees, and the agencies of the Executive branch. The Commission works to accelerate effective state system change by requiring intergovernmental and interagency coordination, as well as stakeholder input on critical disability decisions

SB 362-Disabled parking placards. Provided for the issuance of disabled parking license plates to the parents and legal guardians of persons with physical disabilities that limit or impair their ability to walk.

VOPA attends the quarterly meeting of the Statewide Special Education Advisory Committee. This committee is required by the federal government as a first step in federal Continuous Improvement Monitoring Process. Discussions have included Personnel Licensure Issues, completion and submission of the Federal Annual Performance Report, IDEA Reauthorization, State Assessment Update and a State Improvement Grant

Progress related to public education about IDEA has been limited due to the activities at the federal level surrounding IDEA. However, all VOPA staff continue to provide information and referral about IDEA as it stands. In April 2004, VOPA wrote to key US Senators advising of the implications of certain proposed changes to IDEA.

VOPA has investigated both the Virginia Department of Transportation and the Virginia Lottery and found that they unlawfully contract with entities that discriminate against people with disabilities. Both agencies have been made aware of the results of our investigations. VOPA has entered into settlement negotiations with each and they are on-going. Significant progress has been made with the Lottery.

In February, 2004, the Virginia Office for Protection and Advocacy moved out of a State office building that housed other state agencies and the Governor's Office. This physical move from State government property sent a powerful message to the public that VOPA is an independent State agency and no longer a part of the Executive Branch of State government. The new site

offers better accessibility for potential clients, clients and guests. The new site has also had a positive impact on VOPA staff, including staff that work off-site. In April 2004, the Staunton office was closed due to personnel turnover.

Prior to October 1, 2003, VOPA was structured by funding streams. Staff caseloads were assigned based on grants. Effective October 1, 2003, the Office was re-aligned to more closely reflect the needs of the VOPA constituencies. Three units resulted; Institutions, Communities, and the Resource Advocacy Unit. After some initial growing pains, these units have become cohesive, effective, and motivated advocates and systems change agents. Services are provided both within the unit structure and across organizational lines when needed. This re-alignment reflects the complexities of the VOPA constituencies' needs; that is, not all clients fit neatly into a single grant targeted population. This structure allows the host of client needs to be addressed by a single staff person using various funding streams, instead of having to change workers to address different presenting needs. The goals of the re-structuring included:

- Improve our ability to focus on results and outcomes
- Improve quality and timeliness of investigations
- Provide best possible client services
- Be able to respond to changing demands
- Promote staff satisfaction
- Minimize middle management
- Keep paperwork requirements manageable
- Have manageable supervision loads

In addition, please see specific case examples in Part V that resulted in systemic reform.

#### **B. Litigation/Class Actions:**

1. Number of individuals potentially impacted by changes as a result of PAIR's litigation/class action efforts. (in the targeted geographic area)	About 60,000
2. Number of individuals named in class actions	1

Phillips v. Sibley, United States District Court for the Eastern District of Virginia (Norfolk Division).

VOPA represents a woman who is deaf in a lawsuit to require a doctor to provide a sign language interpreter for her. The woman was referred to the doctor and requested that he provide and pay for a sign language interpreter. VOPA intervened on her behalf and formally requested that a sign language interpreter be provided. The doctor then contacted VOPA and stated that it was his policy to require patients to provide and pay for their own interpreters. VOPA filed suit, naming the client as a plaintiff and also sued in its own name on behalf of all individuals who are deaf and hard of hearing. The case is currently pending. If successful, the case will benefit people with disabilities by establishing judicial precedent that doctors must provide sign language interpreters to people with disabilities who need them to communicate.

Bell v. Bad Wolf Bar B Q, United States District Court for the Western District of Virginia (Roanoke Division).

VOPA represents a person who uses a wheelchair. The person visited the defendants' restaurant and found it to be inaccessible. When he complained, the owner threw him off the premises. VOPA intervened and attempted to resolve the case. The owner refused. VOPA filed suit. The case is pending. Many of the outstanding issues have been settled but some issues remain and will be addressed either through negotiation or further litigation. The case will benefit people with

disabilities (and has already) by ensuring that the restaurant in question is accessible.

**PART V. PAIR'S PRIORITIES AND OBJECTIVES:** It should be noted that VOPA plans its programs based on the needs within the state; not by funding stream or specific disabilities. Some of the identified estimated cases may be addressed in conjunction with other funding streams, but the result will still be a positive impact on PAIR eligible individuals.

**Goal: Children and Youth with Disabilities Receive an Appropriate Education**

**Focus Area: Transition Services for Children Age 14 and Above**

**Needs/Issues/Barriers Addressed**

Denial of or inappropriate transition services

This is a priority because VOPA determined that persons with disabilities rights to access to appropriate transition services were being violated. In addition, this was identified through a public comment process, with guidance by the Governing Board and with input from the VOPA Advisory Councils. The desired effect of addressing this priority is that more persons with disabilities will be able to appropriately access transition services.

**Indicators for Success Include the Completion of the Following Objectives:**

1. To provide legal representation for fifteen (15) children who have been denied transition planning that promotes movement from school to post-school activities.
2. Determine whether the state Disability Services Agencies (Department of Rehabilitative Services, Department for the Blind and Vision Impaired, and the Department for the Deaf and Hard of Hearing) are meeting their obligation to ensure that appropriate transition planning that promotes movement from school to post-school activities is done. If not, initiate litigation and/or other advocacy to change this practice.
3. Represent three (3) children at the Virginia Schools for Deaf and Blind who have been denied transition services.
4. Represent two (2) residents of juvenile justice detention facilities whose Individualized Education Program (IEP) contains no transition planning.
5. Represent the interests of Virginians with disabilities by advocating for appropriate transition planning as a member of the Virginia Board for People with Disabilities.

**Collaborative Efforts**

VOPA has collaborated with several other entities on transition issues. VOPA has worked with and provided trainings for the Virginia Board for People with Disabilities, Partners in Policymaking program, and Parents Education and Advocacy Training Center. In addition, VOPA has sought collaborative relationships with the Department for Rehabilitation Services, Department for Blind and Vision Impaired, Department of Medical Assistance Services and Department of Juvenile Justice on transition issues.

**Number of Cases Served-** 7 cases were served using PAIR funding. Numerous others cases were served with other funding. The results of the cases served with other funding will be a positive impact on all PAIR eligible individuals.

**Examples**

VOPA has had several successful outcomes in this area. VOPA has represented children with disabilities in transition cases against schools and against the Department of Rehabilitative

Services. However, many children VOPA has represented have been DD or PAIMI Act eligible. The outcomes achieved by VOPA will benefit PAIR eligible children because the policy changes and precedents achieved will inure to their benefit should they have a similar case.

Using PAIR funding, VOPA served a child with a neuromuscular disorder that caused him chronic pain. He was not receiving the services indicated in his IEP. VOPA provided the child's mother with technical assistance about functional behavioral assessments and placement concerns.

As part of VOPA's representation, attorneys examine the role of the Disability Services Agencies to ensure that they are fulfilling their obligation to provide transition planning. VOPA attorneys have conducted presentations at numerous transition-oriented trainings and events and will continue to do so.

**Goal: Children and Youth with Disabilities Receive an Appropriate Education**

**Focus Area: Children Placed in Interim Alternative Educational Placements Due to Disability**

**Needs/Issues/Barriers Addressed**

Children being placed inappropriately in interim alternative educational placements due to their disability

This is a priority because VOPA determined that persons with disabilities were being inappropriately placed in interim alternative educational placements. In addition, this was identified through a public comment process, with guidance by the Governing Board and with input from the VOPA Advisory Councils. The desired effect of addressing this priority is that more persons with disabilities will not have their rights compromised

**Indicators for Success Include the Completion of the Following Objective:**

1. Provide legal representation for seven (7) children with disabilities in order to decrease inappropriate placements in interim alternative educational placements. VOPA's representation will focus on securing the provision of appropriate Functional Behavioral Assessments and other procedural due process protections

**Collaborative Efforts**

VOPA has collaborated with several other entities on suspension/expulsion issues including the National Alliance for the Mentally Ill and the Parents Education and Advocacy Training Center.

**Number of Cases Served-** 5 cases were served using PAIR funding. Numerous others cases were served with other funding. The results of the cases served with other funding will be a positive impact on all PAIR eligible individuals.

**Examples**

VOPA has had several successful outcomes in this area. VOPA has represented children with disabilities in suspension/expulsion cases. However, nearly all the children VOPA has represented have been DD or PAIMI Act eligible. The outcomes achieved by VOPA will benefit PAIR eligible children because the policy changes and precedents achieved will inure to their benefit should they have a similar case.

For example, VOPA represented a child when his school tried to suspend him because of improper behavior. The school argued that the child was not eligible for special education (and therefore no



entitled to a functional Behavioral Assessment) because, even though he has a BiPolar Disorder and is failing, he does not meet the requirements of the IDEA. VOPA retained two experts to review the case and prepared a Due Process petition. The case was resolved prior to filing.

Using PAIR funding, VOPA represented a child with Attention Deficit Hyperactivity Disorder whose IEP was not being fully developed to address his accommodation needs; this was resulting in disciplinary efforts on the school's part. VOPA reviewed the IEP, made some recommendations for the mother to self advocate and provided her with technical assistance about how to file a complaint with the Department of Education. The case was successfully resolved.

**Goal : Children and Youth with Disabilities Receive an Appropriate Education**

**Focus Area: Technical Assistance to Private Bar, Legal Services Agencies, and Parent Advocacy Groups Regarding Changes in the Individuals with Disabilities Education Act (IDEA)**

**Needs/Issues/Barriers Addressed**

These entities are critical resources for families of and children with disabilities attending school. They must be kept current with the most recent policy development in order to be able to provide effective advocacy.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Represent the interests of persons with disabilities to the Statewide Special Education Advisory Committee.
2. Develop a publication identifying the changes in the Individuals with Disabilities Education Act within 60 days of Congress amending IDEA.
3. Develop and give three (3) presentations that are tailored to meet the needs of the identified audiences within 30 days of the development of the above publication.
4. Inform identified audiences via a mailing of posters and publications within 60 days of the development of the publication of VOPA's availability to provide training.

**Collaborative Efforts-**

Statewide Special Education Advisory Committee

**Number of Cases Served**-not limited to individual cases

**Example**

VOPA attends the quarterly meeting of the Statewide Special Education Advisory Committee. This committee is required by the federal government as a first step in federal Continuous Improvement Monitoring Process. Discussions have included Personnel Licensure Issues, completion and submission of the Federal Annual Performance Report, IDEA Reauthorization, State Assessment Update and a State Improvement Grant

Other progress in this area has been limited due to the activities at the federal level surrounding IDEA. However, all VOPA staff continue to provide information and referral about IDEA as it stands. In April 2004, VOPA wrote to key US Senators advising of the implications of certain proposed changes to IDEA.

**Goal: People with Disabilities Have Equal Access to Government Services**  
**Focus: Accessible Commercial Locations under Contract with the State**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II and III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Investigate whether, in the Southside area of Virginia, the Virginia Lottery contracts with entities that discriminate against persons with disabilities. If so, initiate litigation and/or other advocacy to change this practice.
2. Investigate whether, in the Western area of Virginia, the Virginia Department of Transportation, through its Logo Program, contracts with entities that discriminate against persons with disabilities. If so, initiate litigation and/or other advocacy to change this practice.

**Collaborative Efforts**

VOPA has attempted to collaborate with the Virginia Lottery and Virginia Department of Transportation. VOPA has also requested collaboration from Centers for Independent Living.

**Number of Cases Served**-not limited to individual cases

**Example**

VOPA has investigated both the Virginia Department of Transportation and the Virginia Lottery and found that they unlawfully contract with entities that discriminate against people with disabilities. Both agencies have been made aware of the results of our investigations. VOPA has entered into settlement negotiations with each and they are on-going. Significant progress has been made with the Lottery. If a settlement cannot be reached, VOPA will initiate litigation against both entities.

**Goal: People with Disabilities Have Equal Access to Government Services**  
**Focus: Law Enforcement Agencies Recognize the Needs of Persons with Disabilities**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Identify a program in the Southwestern area of Virginia that is focused on law enforcement agencies responding appropriately to persons with mental illness who are in crisis, including persons who are homeless. Support and seek to expand this program.
2. Prepare a notice to all city and county law enforcement agencies and sheriff's offices regarding criminal penalties for denying access in public accommodations to persons with service animals.
3. Distribute the notice identified above.

**Collaborative Efforts**

VOPA has collaborated with the task force, a group made up of advocates, attorneys, health care providers and law enforcement officials

**Number of Cases Served**-not limited to individual cases

**Example**

(Indicator number one above was erroneously listed as a PAIR program indicator.)

A notice to law enforcement about penalties for denying access to persons with service animals has been drafted and is being revised. A mailing list of 178 entities has been developed.

**Goal: People with Disabilities Have Equal Access to Government Services**

**Focus: Polling Places for People with Disabilities**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Investigate whether polling places in five (5) cities or counties in the Northern area of Virginia are accessible to persons with disabilities. If not, initiate litigation and/or other advocacy to improve access.
2. Obtain and review the State's plan on voting access and provide comment if appropriate.

**Collaborative Efforts**

State Board of Elections

Virginia Department of Rehabilitation Services

VOPA Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council

**Number of Cases Served**-not limited to individual cases

**Example**

Using other funding, VOPA developed an extensive advocacy and education effort to accomplish this objective. PAIR funding for this objective was not necessary in this fiscal year but may be in future years. The success of these objectives will have a positive impact on all PAIR eligible individuals.

**Goal: People with Disabilities Have Equal Access to Government Services**

**Focus: Accessible Sidewalks**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Investigate whether the sidewalks in the city of Richmond are accessible to persons with disabilities. If not, initiate litigation and/or other advocacy to improve access.

**Collaborative Efforts**

Not applicable as this has advanced to legal representation.

**Number of Cases Served**- 3

**Example**

VOPA represents a woman who complains that the City of Richmond removed a traffic signal, making it unsafe for her to access and cross streets. VOPA has received a settlement offer in the woman's case and is reviewing it. VOPA also represents a person who uses a wheelchair who complained that the City of Richmond piles snow in curb cuts when it plows the streets. VOPA is in settlement negotiations with the city on each issue and will institute litigation if the cases cannot be resolved.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible****Focus: Service Animals in Public Accommodations****Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Identify public accommodations in the Tidewater area of Virginia that deny access to persons with disabilities who use service animals. Initiate litigation and/or other advocacy to improve access.

**Collaborative Efforts**

Not applicable as cases have advanced to legal representation.

**Number of Cases Served**-3 cases were served using PAIR funding. Numerous others cases were served with other funding. The results of the cases served with other funding will be a positive impact on all PAIR eligible individuals.

**Example**

VOPA represented a woman who was denied access to her psychiatrist's office because of her service animal. VOPA secured an agreement from the doctor to permit the woman to make appointments with his office and to attend them with her service animal.

VOPA currently represents a child who was denied access to a restaurant due to his service animal. VOPA has entered into settlement negotiations with the restaurant and, if the matter cannot be settled, will file litigation

VOPA represented a woman who was denied taxi service due to her service animal. VOPA demanded that the taxi company implement a policy requiring its drivers to provide service to people with service animals and train its employees regarding service animals. The taxi company agreed to do so and has trained its employees.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible****Focus: Appropriate Services and Supports to Enable People to Move into the Community****Needs/Issues/Barriers Addressed**

This allows VOPA to advocate for adherence to the true intent of the Olmstead decision.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Identify five (5) unlicensed care facilities for the aged that house persons with disabilities and provide VOPA information.
2. Investigate process of conducting PASARR (Pre-admission screenings) to determine if there is evidence of an institutional bias or other violations of law.
3. Provide legal representation for five (5) persons who have been on a waiting list for a Medicaid Waiver slot and for whom the Waiver waiting list has not moved at a reasonable pace
4. Represent the interests of Virginians with disabilities by advocating for consumer-directed services to be included in Virginia's Mental Retardation Waiver, by participating in the state Mental Retardation Waiver Task Force, and through the Partnership for People with Disabilities, Virginia Board for People with Disabilities, and the Medicaid Wavier Technical Assistance Center Guiding Board.

**Collaborative Efforts**

Mental Retardation Waiver Task Force- The Task Force was reconstituted to include more family and consumer representation and fewer professionals; VOPA was removed from the task force at that point.

Partnership for People with Disabilities

Virginia Board for People with Disabilities

Medicaid Waiver Technical Assistance Center Guiding Board

**Number of Cases Served-** 0 cases were served using PAIR funding. This was erroneously reported as PAIR objectives last year.

**Example**

VOPA's work in this area has largely been for people who are eligible for P&A services under DD or PAIMI but will benefit PAIR eligible people who face similar issues. For example, VOPA represents a young girl who has been on a Waiver waiting list for over 6 years. VOPA found that the girl had never been informed of the existence of Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services and VOPA ensured that she will receive services through that program.

VOPA has completed staff education on PASARR, and in relevant cases, we review its application for maximum community integration. This review has a positive impact on all PAIR eligible individuals in nursing homes as well.

**Goal: People with Disabilities Are Employed to their Maximum Potential****Focus: Supported Employment****Needs/Issues/Barriers Addressed**

This allows VOPA to advocate for greater access to supported employment options for individuals with disabilities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Provide legal representation for fifteen (15) persons with disabilities to ensure that they receive appropriate employment training, as a part of their transition planning from school to post-school activities that meets their abilities, needs, and preferences.

- 2 Represent ten (10) persons with disabilities who have disputes with the Department of Rehabilitative Services regarding supported employment.

**Collaborative Efforts**

VOPA has collaborated with Centers for Independent Living, the Department of Rehabilitative Services (DRS), the Department for the Blind and Visually Impaired both in cases and systemic issues.

**Number of Cases Served-** 0 cases were served using PAIR funding. Numerous others cases were served with other funding. The results of the cases served with other funding will be a positive impact on all PAIR eligible individuals.

**Example** there are no examples of cases where PAIR funding was used

**Goal: People with Disabilities Have Equal Access to Appropriate and Necessary Health Care**

**Focus: Sign Language Interpreters in Medical Professional Offices**

**Needs/Issues/Barriers Addressed**

This allows VOPA to advocate for greater access to sign language interpreters in Medical Professional Offices.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Distribute sign language interpreter information pamphlet to healthcare providers in the Tidewater area of Virginia.
2. Identify medical and mental health care providers in the Southwestern and Tidewater areas of Virginia that deny qualified sign language interpreters to people who are deaf or hard of hearing and need qualified sign language interpreters to communicate effectively. Initiate litigation and/or other advocacy to improve access.

**Collaborative Efforts**

Not applicable as cases have advanced to legal representation.

**Number of Cases Served-** 7 cases

**Example**

Phillips and VOPA v. Dr. Anthony Sibley: Our client, a deaf resident of the Tidewater area, requested a qualified sign language interpreter for her appointment with the defendant. Defendant refused to provide an interpreter, and eventually refused to see the client as his patient altogether, stating that he required his deaf and hard of hearing patients to provide their own interpreter. After efforts to negotiate a resolution failed, a lawsuit was filed June 2004 in US District Court.

VOPA has also represented several persons who are deaf and hard of hearing throughout Virginia. In one case, in the southwest part of the state, VOPA represented a woman whose husband was denied a sign language interpreter during his stay at a hospital. VOPA settled the case when the hospital agreed to execute a comprehensive policy ensuring that sign language interpreters would be provided in the future and paid monetary damages to the client.

VOPA also represents inmates who are deaf and hard of hearing and were denied sign language

interpreters by the Department of Corrections. VOPA is currently in final settlement negotiations on other issues, but the Department has agreed to provide interpreters for medical and mental health care.

VOPA mailed the VOPA publication on sign language interpreters in professional offices to 181 providers in the Tidewater area.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus: Underserved Communities**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. By December 2003, identify one (1) additional target population to receive outreach and training.
2. Create training materials and a presentation for the target population by March 31, 2004.
3. Complete mailings and at least two (2) presentations to the target population by September 2004.
4. Conduct quarterly trainings for McGuire Veterans Administration Medical Center residents.

**Collaborative Efforts**

Objective number 4 involves collaboration with McGuire Veterans hospital, however that objective was erroneously listed as a PAIR objective.

**Number of Cases Served**-not limited to individual cases

**Example**

VOPA is comparing the demographics of Virginia with those of clients served to identify trends and pockets of underserved Virginians. This was a new activity for VOPA and there were learning steps to be taken. The VOPA client database was going to play an integral component in identifying an underserved population. However, VOPA discovered that the database had significant integrity issues. VOPA staff have spent a significant amount of time and effort to develop and implement database enhancements that will help in the identification of underserved populations.

In mid-February, VOPA began to utilize the client database to collect data on the information and referral calls coming into the Resource Advocacy Unit (provides information/referral, technical assistance, develops screenings). Previously, this information was collected on paper and hand counted. We are hoping to use this data collection to assist with the federal reporting activities as well as in the priority setting process. October 1, 2004, an electronic form was implemented for all VOPA staff to collect and report this data to help with compiling and analyzing for pockets of unserved/underserved and trends in service requests

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus: Spanish speaking Constituents**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Identify five (5) Spanish community contacts in Virginia by December 2003.
2. Develop two (2) VOPA primary publications in Spanish by June 2004.
3. Complete two (2) presentations or training sessions between June 2004 and September 2004 for Spanish communities.

**Collaborative Efforts**

VOPA's collaborative efforts in this area include developing an Advisory Committee composed of the following representatives: Governor's Latino Advisory Commission Liaison, PEATC, Catholic Charities-Refugee and Immigration Services, and a local church serving a Spanish speaking congregation.

**Number of Cases Served**-not limited to individual cases

**Example**

VOPA has had significant contacts with the Governor's Latino Advisory Commission and its staff. Consultation with the staff resulted in the VOPA Executive Director being invited to present at the Commission's meeting. Several Commission members offered to provide contacts and linkages to the Latino community. In order to develop a more planful, strategic outreach effort, VOPA has developed a representative committee that reflects the disability and Spanish speaking communities to help in this area. This committee plans to meet quarterly. VOPA has already implemented some of their recommendations.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services****Focus: Adult Care Homes (Assisted Living Facilities)****Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

1. Inform operators and residents of VOPA's mission and availability by completing a mailing of VOPA posters and materials by December 2003.
2. Inform operators of VOPA's availability to provide training in the area of disability rights through random monthly drop-in visits. (1 per month)

**Collaborative Efforts**

Assisted Living Facilities on mailing list

**Number of Cases Served**-not limited to individual cases

**Example**

VOPA sent a targeted mailing to assisted living facilities in Southwest Virginia that included information about VOPA and our availability for training.

VOPA has developed a monitoring protocol for drop-in visits to Adult Care Homes. Feedback is



provided to the Adult Care Homes about their efforts to protect disability rights upon completion of the drop-in visits.

**Other cases:** VOPA served over 70 additional individual cases using PAIR funding. Many of these cases were “carried over” from previously started representations that VOPA needed to complete under previous years’ objectives. These other cases do not fit into the above stated FY04 priorities cleanly and therefore are not reported under these priorities.

**Examples:** A woman with a neuromuscular disorder shops at the local Food Lion. Because of her disability, she needs to park in the accessible parking spaces (she has a placard for her car) but was not able to access the spaces because they were blocked with delivery trucks. She has attempted over the last year to resolve this problem herself with no luck. With VOPA’s assistance, Food Lion agreed to keep the accessible parking places clear as well as the lane accessing them.

VOPA represents several inmates who are deaf or hard of hearing in an attempt to ensure that they can access Department of Corrections programs. The Virginia Department of Corrections currently will not provide sign language interpreters for its programs. Thus, deaf and hard of hearing inmates cannot access educational, job training or therapeutic programs. VOPA has previously filed and litigation ensuring that a deaf inmate could have access to a prison program. VOPA is negotiating with DOC to make this a global policy. If negotiations fail, VOPA will initiate additional litigation.

In two separate cases, VOPA represented deaf persons in Richmond and Leesburg, Virginia who were denied sign language interpreters by their doctors. VOPA demanded that the doctor provide them with interpreters, at no cost, and agree to provide interpreters, free of charge, to people who patients who need them. The doctors entered a settlement agreement obligating them to provide interpreters for the individuals and requiring them to provide interpreters for future patients.

#### **B. Priorities and Objectives for the Current Fiscal Year:**

Please see attached priorities and objectives for FY 2005. VOPA has used the term “Focus Area” instead of “Priority.” This is a result of client and potential client feedback that telling someone their issue does not fall within our priorities gives the person the impression we are insensitive to their issue. This change was positively received by our Governing Board and our Advisory Councils.

It should be noted that the Virginia Office for Protection and Advocacy (VOPA) has made a deliberate decision to take cases that we believe will have a strong systemic impact on the lives of Virginians with disabilities. Although we are opening a targeted number of cases, we believe that by tying them directly to systemic reform, we are making significant impact on a much larger population group.

Annually, VOPA plans its programs based on the needs within the state; not by funding stream or specific disabilities. Some of the identified estimated cases may be addressed in conjunction with other funding streams, but the result will still be a positive impact on PAIR eligible individuals.

**PART V: NARRATIVE:****A. Sources of Funds Received and Expended:**

1. PAIR FY 03-04 grant and carry-over funds	431,416
2. PAIR Expenditures	273,692

**B. Budget for the Fiscal Year Covered by this Report:**

Category	Expenditure Amounts
Wages and Salaries	136,856
Fringe Benefits (FICA, unemployment, etc.)	49,358
Materials/Supplies	2,393
Postage	453
Telephone	8,279
Office Rent	17,848
Travel	7,077
Equipment Rental/Purchase	2,823
Legal Services	45
Indirect Costs	26,010
Miscellaneous	22,550
Total	273,692

**C. Description of PAIR staff (duties and person-years):**

Position Description	Person-Years
Executive Director	1
Policy Director	1
Managing Attorneys	2
Staff Attorneys	4.7
Paralegal	.3
Resource Advocates	2.75
Receptionist	.4
Business Manager	1
Data/Incident Analyst	1
Administrative Assistants	3.9

**D. Involvement with Advisory Boards (if any):**

VOPA has established two Advisory Councils; one is specific to Protection and Advocacy for Individuals with Mental Illness (PAIMI, required by federal funding stream) and one was specific to Protection and Advocacy for Developmental Disabilities (PADD, voluntarily developed by VOPA). VOPA has expanded the PADD Advisory Council for FY 2004 to include all other disabilities. It has been re-named as the Disabilities Advisory Council (DAC) and VOPA staff, Governing Board members, and Council members have actively recruited additional members to appropriately reflect this expansion. The DAC provides input and feedback to VOPA about its PAIR activities. The Chair of the DAC is an ex-officio member of the Governing Board and is expected to attend Governing Board meetings. PAIR staff attend the PADD/DAC meetings and attend the Governing Board meetings as the agenda dictates.

**E. Grievances filed Under the Grievance Procedure:**

VOPA addressed four appeals related to program eligibility. All four appeals were denied. VOPA received three appeals related to case closings. One was reconsidered and two were denied.

**F. Coordination with the Client Assistance Program (CAP) and the State Long-Term Care Program, if these programs are not part of the P&A Agency:**

CAP is part of VOPA.

Coordination with the State Long-Term Care Program (Virginia Department of Aging) occurs on an as needed basis. However, VOPA does attend and participate in their Virginia Public Guardian and Conservator Advisory Board.

The Department of Medical Assistance Services (DMAS) is the primary source of funding for the long-term care system in Virginia. Again, VOPA coordinates with them on an as needed basis. Specific activities in the past year have included participation in the Medicaid Buy-In.

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Within 90 days after the end of the fiscal year covered by this report, mail one copy of this report to the RSA Regional Office and one copy to the RSA Central Office specified in the instructions.

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Signature of agency official

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Date